

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FERNANDO CORIA, JR.,
Plaintiff,

v.

M. GARCIA, et al.,
Defendants.

No. 1:20-cv-01652 KES GSA (PC)

FINDINGS AND RECOMMENDATIONS

ORDER RECOMMENDING THAT:

(1) THIS MATTER BE DISMISSED FOR PLAINTIFF'S FAILURE TO OBEY A COURT ORDER AND HIS FAILURE TO KEEP THE COURT INFORMED OF HIS CURRENT ADDRESS, AND

(2) DEFENDANTS' MOTION TO DISMISS BE DENIED AS MOOT

(ECF No. 61)

PLAINTIFF'S OBJECTIONS DUE IN FOURTEEN DAYS

Plaintiff, a former state prisoner proceeding pro se and in forma pauperis, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

For the reasons stated below, the undersigned will recommend that this matter be dismissed due to Plaintiff's failure to obey a court order and his failure to keep the Court informed of his current address. In addition, the Court will recommend that Defendants' recently filed motion to dismiss (ECF No. 61) be denied as moot. Plaintiff will have fourteen days to file

1 objections to this order.

2 I. RELEVANT BACKGROUND

3 A. Order Directing Plaintiff to File Notice of Current Address

4 On March 7, 2023, the motion to stay these proceedings, filed by Defendants, was
5 granted. See ECF Nos. 50, 53 (Ds' motion to stay; grant of same, respectively). The matter was
6 stayed pending resolution of a related criminal matter and disciplinary proceeding that were
7 related to an incident alleged in Plaintiff's complaint. See generally ECF No. 50 at 1
8 (Defendants' motion); ECF No. 53 at 1 (Court's grant of same). When the stay was granted,
9 Defendants were ordered to file a status report either within fourteen days of Plaintiff's criminal
10 case being resolved, or one year after the date of the stay, whichever came earlier. ECF No. 53 at
11 2.

12 Ultimately, on March 4, 2025, Defendants filed a status report which indicated that
13 Plaintiff's related criminal case had been resolved and that Plaintiff had been released from
14 custody on February 18, 2025. ECF No. 59 at 1-2. However, in the report, Defendants also
15 informed the Court that Plaintiff had not updated his address, either with defense counsel or with
16 the Court. Id. at 2. Based on these facts on March 10, 2025, the Court lifted the stay and ordered
17 Plaintiff to file a notice for current address with the Court. ECF No. 60. Plaintiff was given
18 thirty days to do so. Id. at 3.

19 B. Order Returned to Court Marked "Undeliverable"

20 On March 20, 2025, the Court's order which directed Plaintiff to file an updated address
21 with the Court was returned to it marked, "Undeliverable, RTS, Paroled." See 3/20/25 Docket
22 Entry. As a result, pursuant to Local Rule 183(b), Plaintiff had thirty additional days to file a
23 notice of current address with the Court. To date, Plaintiff has not filed one.

24 C. Defendants' Motion to Dismiss

25 On May 7, 2025, Defendants filed a motion to dismiss this matter consistent with Federal
26 Rule of Civil Procedure 41(b) and Local Rule 183(b). ECF No. 61 at 3-5. In support of it, they
27 state that Plaintiff has been released from custody but to date he has not filed a current address
28 with the Court. Id. at 3.

1 II. APPLICABLE LAW

2 A. Federal Rule of Civil Procedure 41(b) and Local Rules 110, 182(f) and 183(b)

3 Federal Rule of Civil Procedure 41 permits this Court to dismiss a matter if a plaintiff fails
4 to prosecute or he fails to comply with a court order. See Fed. R. Civ. P. 41(b). Local Rule 110
5 also permits the imposition of sanctions when a party fails to comply with a court order. L.R.
6 110.

7 Local Rule 182(f) permits service to be effective service at a prior address if a party fails
8 to notify the Court and other parties of his address change. Id. Finally, Local Rule 183(b) gives a
9 party who appears in propria persona a period of time to file a notice of change of address if some
10 of his mail is returned to the Court. Id.

11 B. Malone Factors

12 The Ninth Circuit has clearly identified the factors to consider when dismissing a case for
13 failure to comply with a court order. It writes:

14
15 A district court must weigh five factors in determining whether to dismiss a case
16 for failure to comply with a court order: “(1) the public’s interest in expeditious
17 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of
18 prejudice to the defendants; (4) the public policy favoring disposition of cases on
19 their merits; and (5) the availability of less drastic sanctions.”

20 Malone v. United States Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (quoting Thompson v.
Hous. Auth. of City of Los Angeles, 782 F.2d 829 (9th Cir. 1986) (per curiam)).

21 III. DISCUSSION

22 A. Rule 41(b) and Local Rules 110, 182(f) and 183(b) Support Dismissal of This
23 Case

24 Although the docket indicates that Plaintiff’s copy of the order which lifted the stay in this
25 matter and directed him to file a notice of current address with the Court was returned, Plaintiff
26 was nevertheless properly served. It is a plaintiff’s responsibility to keep a court apprised of his
27 current address at all times. Pursuant to Local Rule 182(f), service of documents at the record
28 address of the party is fully effective. The fact that Plaintiff failed to file a notice of change of

1 address with the Court by itself warrants the dismissal of this matter, in accord with Rule 41(b)
2 and Local Rules 110 and 183(b).

3 B. Application of Malone Factors Supports the Dismissal of This Case

4 1. Expeditious Resolution of Litigation; Court's Need to Manage Its Docket

5 Plaintiff has been given sufficient time to file a notice of change of address with the Court,
6 yet he has failed to do so. Nor has Plaintiff contacted the Court to provide reasons for not having
7 done so.

8 The Eastern District Court has an unusually large caseload.¹ “[T]he goal of fairly
9 dispensing justice . . . is compromised when the Court is forced to devote its limited resources to
10 the processing of frivolous and repetitious requests.” Whitaker v. Superior Court of San
11 Francisco, 514 U.S. 208, 210 (1994) (brackets added) (citation omitted). Thus, it follows that
12 keeping this case on the Court's docket when Plaintiff has not attempted to file a notice of current
13 address with the Court is not a good use of the Court's already taxed resources. Indeed, keeping
14 this matter on the Court's docket would stall a quicker disposition of this case. Additionally, in
15 fairness to the many other litigants who currently have cases before the Court, no additional time
16 should be spent on this matter.

17 2. Risk of Prejudice to Defendants

18 Because Defendants have filed a motion seeking dismissal of this case (ECF No. 61), it is
19 hard to envision a risk of prejudice to them.

20 3. Availability of Less Drastic Sanctions; Favored Disposition of Cases on
21 Merits

22 Finally, given that Plaintiff has had sufficient time under the Local Rules to file a change
23

24
25 ¹ The Eastern District of California carries one of the largest and most heavily weighted
26 caseloads in the nation. See Office of the Clerk, United States District Court, Eastern District of
27 California, 2024 Annual Report, “Weighted Filings,” p. 35 (2024) (“[O]ur weighted caseload far
28 exceeds the national average . . . ranking us fourth in the nation and first in the Ninth Circuit.”).
This problem is compounded by a shortage of jurists to review its pending matters. See generally
id. (stating 2024 Biennial Judgeship Survey recommended request for four additional permanent
judgeships for Eastern District of California).

1 of address² since its order directing Plaintiff to file a notice of current address with the Court
2 issued, without the filing of a notice of new address by Plaintiff, there is no less drastic option
3 than dismissal. Although the disposition of cases on their merits is preferred, this matter cannot
4 be prosecuted without a current address for Plaintiff and without participation by Plaintiff, nor
5 can it be disposed of on its merits.

6 C. Defendants' Motion to Dismiss

7 In light of the above, this matter can be dismissed on its face without considering
8 Defendant's recently filed and pending motion to dismiss. See ECF No. 61. Therefore, the Court
9 declines to consider it, and the motion will be denied as moot.

10 IV. CONCLUSION

11 For these reasons, consistent with Federal Rule of Civil Procedure 41(b) and Local Rules
12 110, 182(f) and 183(b), and having considered the Malone factors, the undersigned recommends
13 that this matter be dismissed without prejudice for failure to obey a court order and for Plaintiff's
14 failure to keep the Court apprised of his current address. Given the facts stated herein, the
15 undersigned also recommends that Defendants' pending motion to dismiss be denied as moot.

16 Despite the fact that Plaintiff cannot be located, a period of fourteen days will be given for
17 Plaintiff to file objections to this order. However, should this order be returned to the Court
18 marked undeliverable before the end of the fourteen-day period, the District Judge assigned to
19 this action may dismiss it immediately.

20 Accordingly, IT IS HEREBY RECOMMENDED that this matter be DISMISSED for
21 Plaintiff's failure to obey a court order and for his failure to keep the Court apprised of his current
22 address. See Fed. R. Civ. P. 41(b); Local Rules 110 and 183(b).

23 These findings and recommendations are submitted to the United States District Judge
24 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
25 after being served with these findings and recommendations, Plaintiff may file written objections
26 with the Court. Such a document should be captioned "Objections to Magistrate Judge's Findings
27

28 ² In 2025, the period that a litigant appearing in propria person has to file a notice of change of address was reduced from sixty-three days to thirty days. See Local Rule 183(b).

1 and Recommendations,” and it shall not exceed fifteen pages.

2 The Court will not consider exhibits attached to the objections. To the extent that Plaintiff
3 wishes to refer to any exhibit, when possible, he must reference the exhibit in the record by its
4 CM/ECF document and page number or reference the exhibit with specificity. Any pages filed in
5 excess of the fifteen-page limit may be disregarded by the District Judge when conducting the 28
6 U.S.C. § 636(b)(1)(C) review of the findings and recommendations. Plaintiff’s failure to file
7 objections within the specified time may result in the waiver of certain rights on appeal. See
8 Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014); Martinez v. Ylst, 951 F.2d 1153 (9th
9 Cir. 1991).

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11
12 IT IS SO ORDERED.

13 Dated: May 10, 2025

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE